

Message Text

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PAGE 01 ROME 09156 030816Z

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TREASURY FOR NATHAN GORDON

E.O. 11652: N/A

TAGS: EFIN, IT

SUBJECT: BRIEFING PAPER FOR SECRETARY KISSINGER'S VISIT TO ROME

1. WE HAVE LEARNED FROM CONTACT IN MINISTRY OF FOREIGN AFFAIRS THAT BACKGROUND PAPER IS BEING PREPARED IN ANTICIPATION OF SECRETARY'S VISIT TO ROME ON CURRENT STATUS OF DISCUSSIONS BETWEEN US AND ITALY CONCERNING 1955 US-ITALIAN DOUBLE TAXATION CONVENTION ON INCOME TAXES. ALTHOUGH WE DON'T KNOW IF GOI INTENDS TO RAISE ISSUE, FOLLOWING IS EMBASSY'S SUGGESTED BRIEFING PAPER, SHOULD SUBJECT COME UP DURING SECRETARY'S ROME VISIT.

2. ISSUE. USG AND GOI ARE CURRENTLY ENGAGED IN DISCUSSIONS CONCERNING APPLICABILITY OF CONVENTION BETWEEN USA AND ITALIAN REPUBLIC FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH REGARD TO TAXES ON INCOME SIGNED IN WASHINGTON MARCH 30, 1955. ACCORDING TO GOI, CONVENTION HAS BEEN RENDERED INOPERABLE ON ITALIAN SIDE DUE TO INTRODUCTION OF NEW

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PAGE 02 ROME 09156 030816Z

TAX REFORM MEASURES BY GOI AT BEGINNING OF 1974. WHILE

BOTH GOVERNMENTS HAVE AGREED THAT NEGOTIATION OF A NEW CONVENTION WILL BE NECESSARY, IN MEANTIME TECHNICAL DISCUSSIONS ARE TAKING PLACE IN EFFORT TO MAINTAIN AT LEAST LIMITED CONVENTIONAL ARRANGEMENT CASH CARRY BASIS. ON JUNE 28 MINISTRY OF FOREIGN AFFAIRS SENT US EMBASSY A NOTE VERBALE PROPOSING AN INTERIM ARRANGEMENT TO WHICH USG HAS NOT YET MADE SUBSTANTIVE RESPONSE. WE HAVE, HOWEVER, NOTIFIED GOI OF OUR INTENTION TO TERMINATE CONVENTION AS OF JANUARY 1, 1975, IN ORDER TO PROTECT U.S. RIGHTS IN EVENT ISSUE IS NOT SATISFACTORILY RESOLVED PRIOR TO THAT DATE. BECAUSE OF CURRENT SENSITIVE ITALIAN FINANCIAL AND POLITICAL SITUATION, WE ARE ATTEMPTING TO PORTRAY NOTE ON TERMINATION OF CONVENTION AS ROUTINE, PRO FORMA MEASURE AND HAVE EXPRESSED OPTIMISM ABOUT EVENTUAL RESOLUTION OF ISSUE.

3. BACKGROUND. WHEN NEW ITALIAN TAX REFORM MEASURES WENT INTO EFFECT JANUARY 1, 1974, REPLACING THOSE TAXES COVERED BY US-ITALIAN DOUBLE TAXATION CONVENTION, GOI CLAIMED THAT CONVENTION APPEARED TO BE NO LONGER OPERABLE. BOTH ITALIAN AND AMERICAN REPRESENTATIVES AGREED THAT ENTIRELY NEW CONVENTION WOULD EVENTUALLY HAVE TO BE NEGOTIATED, ALTHOUGH THIS COULD TAKE CONSIDERABLE TIME TO NEGOTIATE AND RATIFY. IN MEANTIME, TECHNICAL LEVEL DISCUSSIONS HAVE BEEN FOCUSING ON INTERIM ARRANGEMENT TO KEEP AT LEAST PART OF CONVENTION IN EFFECT UNTIL NEW CONVENTION CAN BE NEGOTIATED.

4. ITALIAN POSITION. GOI IS INTERESTED IN NEGOTIATING NEW DOUBLE TAXATION CONVENTION WHILE AT SAME TIME INSURING THAT THERE IS NO LAPSE IN APPLICATION OF EXISTING CONVENTION. ITALIANS HAVE PROPOSED THAT ANY INTERIM ARRANGEMENT BE EFFECTIVE RETROCATIVELY TO JANUARY 1974 AND HAVE PROPOSED AN EXCHANGE OF NOTES (WHICH MAY, OR MAY NOT, HAVE TO BE SUBSEQUENTLY RATIFIED BY PARLIAMENT). THIS ACTION WOULD INSURE THAT BOTH PERSONAL AND CORPORATE INCOME TAXES WOULD BE COVERED UNDER CONVENTION. HOWEVER, GOI CLAIMS THAT NEW LOCAL TAX (ILOR - IMPOSTA LOCALE SUI REDDITI) SHOULD NOT BE COVERED BY CONVENTION, AS MODIFIED BY EXCHANGE OF NOTES. (MOST OF ITALY'S TAX LIMITED OFFICIAL USE

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PAGE 03 ROME 09156 030816Z

CONVENTIONS HAVE COVERED LOCAL TAXES WHERE OTHER PARTY TO AGREEMENT MADE SIMILAR COMMITMENT. WHEN US TREATY WAS NEGOTIATED, LOCAL TAXES WERE EXCLUDED BECAUSE OF US FEDERAL/STATE JURISDICTIONAL PROBLEM.)

5. US POSITION. USG IS CONCERNED ABOUT RECIPROCITY OF ANY INTERIM ARRANGEMENT FOR MAINTAINING APPLICATION OF CONVENTION, BOTH ON GROUNDS OF EQUITY AND IN ORDER

TO DEFEND USG POSITION WITH SENATE WHENEVER NEW TREATY IS SUBMITTED FOR RATIFICATION. US TREASURY DEPARTMENT TAX EXPERTS HAVE TAKEN POSITION THAT ILOR IS NATIONAL IN CHARACTER SINCE IT IS ESTABLISHED AND CAN BE CHANGED ONLY BY ITALIAN NATIONAL PARLIAMENT. FURTHERMORE, IN FUTURE THIS LOCAL TAX COULD BECOME INCREASINGLY IMPORTANT PART OF ITALIAN TAX STRUCTURE. TO EXCLUDE IT WOULD REDUCE TAX COVERAGE OF CONVENTION ON ITALIAN SIDE OS THAT IS APPLICATION WOULD NOT BE RECIPROCAL. (ALTHOUGH 1955 TREATY DOES NOT REQUIRE IT, IN PRACTICE, STATE AND LOCAL TAX AUTHORITIES IN US DO NOT WITHHOLD TAXES PAID TO ITALIAN RESIDENTS.) USG HAS NOT YET RESPONDED TO GOI NOTE VERBALE OF JUNE 27 AND POSITION, ESPECIALLY REGARDING EXCLUSION OF LOCAL INCOME TAX, IS PRESENTLY BEING FORMULATED IN WASHINGTON. WE DID, HOWEVER, EXERCISE OPTION UNDER CONVENTION AND NOTIFIED GOI OF INTENTION TO TERMINATE CONVENTION AS OF JANUARY 1, 1975. A NOTE VERBALE WAS DELIVERED TO THIS EFFECT ON JUNE 29 BECAUSE OF REQUIREMENT THAT SIX-MONTH NOTICE BE GIVEN PRIOR TO SUCH TERMINATION. WE HAVE, HOWEVER, MADE CLEAR THAT DISCUSSIONS ON SUBJECT WILL CONTINUE, AND IF PROBLEM IS SATISFACTORILY RESOLVED WE WOULD WITHDRAW OUT NOTICE OF TERMINATION.

6. TALKING POINTS. WE DO NOT RECOMMEND THAT YOU RAISE THIS SUBJECT. IF THE ITALIANS BRING IT UP, YOU MIGHT WISH TO COMMENT THAT:

--BOTH USG AND GOI ARE IN AGREEMENT THAT EVERY EFFORT SHOULD BE MADE TO MAINTAIN APPLICATION OF TREATY ON INTERIM BASIS SO THAT DOUBLE TAXATION AND FISCAL EVASION COULD BE PREVENTED;

--USG IS PRESENTLY STUDYING RECENT GOI NOTE AND WILL BE RESPONDING TO GOI AS PART OF ON-GOING DIALOGUE ON LIMITED OFFICIAL USE

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PAGE 04 ROME 09156 030816Z

THIS ISSUE;

--USG NOTICE TO TERMINATE CONVENTION AS OF JANUARY 1, 1975 MERELY CONSTITUTES EXERCISE OF OPTION OPEN TO EITHER SIGNATORY UNDER CONVENTION WHICH, BECAUSE OF SIX-MONTH TIME CONSTRAINT, US WAS REQUIRED TO TAKE BEFORE END OF JUNE. USG INTENDS TO CONTINUE DISCUSSIONS WITH GOI ON THE SUBJECT AND, IF SATISFACTORY RESOLUTION IS REACHED, WE WILL WITHDRAW OUR NOTICE OF TERMINATION. VOLPE

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